IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 505 of 2001
with
CRIMINAL REVISION APPLICATION No 522 of 2001
with
CRIMINAL REVISION APPLICATION No 523 of 2001
and
CRIMINAL REVISION APPLICATION No 524 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESH V IYER, GENERL MANAGER (MATERIALS) M/S DEEPAK NITRITE
Versus
STATE OF GUJARAT

Appearance:
1. Criminal Revision Applications Nos. 522, 523 and 524 of 2001
MR PM THAKKAR for the Petitioners
MR HL JANI, PUBLIC PROSECUTOR for Respondent - State
MR MUKESH R SHAH for the Complainant

2. Criminal Revision Application No.505 of 2001
MR PM THAKKAR for the Petitioner
MR LR PUJARI, PUBLIC PROSECUTOR for Respondent-State
MR MUKESH R SHAH for the Complainant

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/12/2001

COMMON ORAL JUDGEMENT

#. Heard the learned advocates.

#. This group of four Revision Applications preferred under Section 397 read with Section 401 of the Code of Criminal Procedure arise from the order dated 17th August, 2001 made by the learned Special Judge, Ahmedabad below Application Ex.50 in Special Case No.41/99. All the four revision petitioners are the accused alongwith others in above referred Special Case No.41/99. The revision petitioners are the employees of M/s. Deepak Nitrite Limited (a Public Limited Company). The accused are arraigned for the offences punishable under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and Section 120(b) of the Indian Penal Code. The four revision petitioners filed application Ex.50 for dispensing their personal attendance before the Court under Section 205 of the Code of Criminal Procedure. The said application Ex.50 has been rejected under the impugned order dated 17th August, 2001. Feeling aggrieved, the petitioners have preferred the present petitions.

#. Mr.Thakkar has submitted that the trial of the case shall take a long time. The revision petitioners are the officers of the aforesaid Company and need not be required to remain present on all occasions. He states that in the event the petitioners are exempted from remaining personally present in the Court, the Court may direct the presence of the petitioners in case it is necessary for proceeding with the trial. In such an eventuality, the petitioners shall remain present before the Court. He further states that neither of the petitioners is required to remain present at the time of framing of charge. On the date set for framing of charge, the learned advocate representing the petitioners shall remain present before the Court. The Court shall frame the charge even in absence of the petitioners. The petitioners shall not take plea of prejudice caused to the concerned petitioner at any stage of trial or appeal or revision at any time.

#. On the facts of the present case, the Revision Applications are allowed. The personal attendance of all the four revision petitioners before the trial Court is dispensed with, on condition that the petitioners shall scrupulously remain present before the trial Court in the

event the trial Court directs the concerned petitioner to remain personally present before the Court. On 21st December, 2001, the date set for framing of charge or on any other date that may be set for framing of charge, the learned advocate representing the petitioners shall remain present before the Court. In the event the learned advocate does not remain present, the Court shall be at liberty to frame the charge in such an eventuality also. The petitioners shall not be at liberty to take the plea of prejudice caused to the concerned petitioner. Each of the petitioners shall, on or before 21st December, 2001, give an undertaking to the trial Court that in the event the trial Court frames the charge in absence of any of the petitioners or the learned advocate representing the concerned petitioner, the concerned petitioner shall not take plea of prejudice caused to him, at any stage of trial or appeal or revision. In the event, any of the petitioners fails to give undertaking as directed hereinabove or abide by the condition stipulated hereinabove, the exemption granted under this order shall stand vacated.

#. The impugned order dated 17th August, 2001 made below Application Ex.50 is set aside. Rule nisi issued in each of the Revision Applications is made absolute in the above terms. Direct service is permitted.

5th December, 2001. (Ms. R.M.Doshit, J.)

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